

**REMARKS**

Claims 1-16 are pending in this application. By this Amendment, claims 1-16 are amended for clarity. No new matter is added.

**I. Rejection Under 35 U.S.C. § 103(a)**

The Office Action rejects claims 1-6, 8-14 and 16 under 35 U.S.C. § 103(a) over Nishimura et al. (Nishimura), U.S. Patent No. 5,617,141, in view of Nakayama, U.S. Patent No. 6,963,362. The rejection is respectfully traversed.

The Office Action fails to establish a *prima facie* case of obviousness. Three criteria must be met to establish a *prima facie* case of obviousness. “First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. ” Additionally, “[t]he teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure.” *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Here, the Office Action does not establish a *prima facie* case of obviousness because the combination of Nishimura and Nakayama does not teach or suggest all the features recited in independent claims 1 and 9. Moreover, the Office Action fails to allege that the features missing from the applied references would have been generally known in the art.

Specifically, the combination of Nishimura and Nakayama fails to disclose or suggest the claimed white balance correction value that utilizes a color temperature calculated from an illumination of both field light and light emitted from a light emitting unit, and that when the calculated color temperature is in a predetermined range, the degree by which the calculated color temperature is utilized in the white balance correction is decreased, as recited

in independent claim 1, and similarly recited in independent claim 9.

For example, the calculating unit calculates white balance correction utilizing the color temperature calculated from the image taken with a light emitting unit. When this calculated color temperature is within a predetermined range, the degree of utilization of the color temperature in relation to the white balance correction value is decreased. The reliability of the color temperature calculated from the image taken from the emitted light is judged based on the value of the color temperature. Accordingly, the combinations of features recited in independent claims 1 and 9 provide adequate white balance correction to an image taken with a light emitting element, without using complex processes. Neither Nishimura nor Nakayama discloses or suggests the claimed combinations of features or the resulting benefits.

Nishimura teaches narrowing the range of white balance correction when the combination of subject illumination and background distance are in a predetermined range. Nishimura does not use color temperature calculated from the image taken with a light emitting unit to calculate white balance correction. The color temperature utilized in the Nishimura white balance correction calculation is based on the calculation of ambience, and includes as inputs the illumination of the image subject and at least one of the distance to the subject and time of day. The reliability of the color temperature calculated in Nishimura is judged on the subject illumination and background distance, but not on the value of the color temperature itself. Furthermore, the image is not an image taken with a light emitting source, as acknowledged by the Office Action.

Nakayama teaches adjusting the white balance correction value based on the illumination of the subject and the amount of light generated by a flash apparatus. Nakayama

does not use color temperature calculated from the image taken with a light emitting unit to calculate white balance correction. Thus, the reliability of the color temperature calculated from the image taken with a flash in Nakayama is judged not based on the value of the color temperature, but on the luminance of the subject and amount of light generated by the flash apparatus.

In view of the above, the combination of Nishimura and Nakayama fails to disclose or suggest the claimed white balance correction value that utilizes a temperature calculated from an illumination of both field light and light emitted from a light emitting unit, and that when calculated color temperature is in a predetermined range, the degree by which the calculated color temperature is utilized in the white balance correction is decreased, as recited in independent claims 1 and 9. Thus, claims 1 and 9 are patentable over Nishimura and Nakayama. Claims 2-6 and 8 depend from claim 1. Claims 10-14 and 16 depend from claim 9. Thus, these claims also are patentable. Withdrawal of the rejection is respectfully requested.

## **II. Allowable Subject Matter**


The Office Action indicates that claims 7 and 15 contain allowable subject matter and would be allowable if rewritten in independent form including all of the features of the base claim and any intervening claims. Applicant appreciates this indication of allowable subject matter and submits that all pending claims are allowable for the reasons discussed above.

## **III. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of all pending claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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MAC:DRK/jls

Attachment:  
Petition for Extension of Time

Date: May 29, 2007

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